

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Roy Day

17CV7270  
CV

Write the full name of each plaintiff.

(Include case number if one has been assigned)

-against-

Do you want a jury trial?

MTA New York City Transit Authority

☒ Yes ☐ No

HRA Ruby Robinson

~~Agencia~~

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

S.D. OF N.Y.

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**I. PARTIES****A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

<u>Roy</u>	<u>L</u>	<u>Day</u>
First Name	Middle Initial	Last Name
<u>304 W. 120<sup>th</sup> street 120<sup>th</sup> Apt 113</u>		
Street Address		
<u>Manhattan</u>	<u>New York, NY</u>	<u>10027</u>
County, City	State	Zip Code
<u>917-993-3150</u>	<u>dayroy@rocketmail</u>	
Telephone Number	Email Address (if available)	

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:	<u>MTA New York City Transit Authority Ruby Robinson</u>		
	Name		
	<u>180 Livingston Street</u>		
	Address where defendant may be served		
	<u>New York</u>	<u>NY</u>	<u>10027</u>
	County, City	State	Zip Code
Defendant 2:	<u>Ruby Robinson</u>		
	Name		
	Address where defendant may be served		
	County, City	State	Zip Code

Defendant 3:

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 Name

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 Address where defendant may be served

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 County, City

State

Zip Code

**II. PLACE OF EMPLOYMENT**

The address at which I was employed or sought employment by the defendant(s) is:

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 MTA New York City Transit Authority

Name

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 180 Livingston Street 5<sup>th</sup> Floor

Address

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 Brooklyn

New York

11201

County, City

State

Zip Code

**III. CAUSE OF ACTION****A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☐ **Title VII of the Civil Rights Act of 1964**, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin

The defendant discriminated against me because of my (check only those that apply and explain):

- ☐ race: \_\_\_\_\_
- ☐ color: \_\_\_\_\_
- ☐ religion: \_\_\_\_\_
- ☐ sex: \_\_\_\_\_
- ☐ national origin: \_\_\_\_\_

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: \_\_\_\_\_

- ☐ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: \_\_\_\_\_

- ☒ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: \_\_\_\_\_

- ☒ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

## B. Other Claims

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law):

\_\_\_\_\_

#### IV. STATEMENT OF CLAIM

##### A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☒ did not hire me
- ☐ terminated my employment
- ☐ did not promote me
- ☒ did not accommodate my disability
- ☐ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☐ harassed me or created a hostile work environment
- ☐ other (specify): \_\_\_\_\_

##### B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

On or about March 30, 2017 I received an email from the NYC Transit Authority inviting to appeal for the second phase of the pre-employment process for Train Operator. Thereafter I was given a medical questionnaire to fill out I explained that I had kidney disease. ~~one~~ of ~~question~~ the questions asked was whether I used drugs in the past I said I have tried cocaine in the past.

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

## V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? \_\_\_\_\_

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? \_\_\_\_\_

When did you receive the Notice? \_\_\_\_\_

☐ No

## VI. RELIEF

The relief I want the court to order is (check only those that apply):

☒ direct the defendant to hire me

☐ direct the defendant to re-employ me

☐ direct the defendant to promote me

☐ direct the defendant to reasonably accommodate my religion

☐ direct the defendant to reasonably accommodate my disability

☐ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

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Plaintiff defendant  
 Roy Day v. MTA New York City Transit 9/22/2017

Afterward, the medical assessment was conducted in which, I ~~past~~ ~~was~~ was informed by MTA Doctor I have a "medical hold" to clear because I had Kidney Disease. It's also a issue I raised with EEOC regarding employment discrimination under the ADA. I was also given a sheet of paper to give to the ~~the~~ work life services which is the drug department because I mention I had <sup>third</sup> coke 5 yrs ago. I raise the issue that I was discriminated against because of my disability (kidney transplant) and excessive urine sample taken from a applicant. I contend that I was discriminated against after completing a 2½ Month drug program that MTA work life service requested me to attend and submit to him a compliance letter the drug treatment program, toxicology reports, prognosis and diagnosis of tenure in the treatment facility. After completion of the Treatment Center I was denied employment by MTA (NYCTA). The plaintiff argue also that it is illegal to administer 4 drug test samples to an applicant who is not employee is a form unlawful acts. Here I argue that mass drug-testing show employers how they can learn more about applicants systematic toxicological testing such medication(s) are taken, which in turn disclose what illnesses or disease applicants may have.

I believe that I was discriminated against from the very beginning of the pre-employment all the way to the closing of the Train Operator, exam # 8098. Having filed complaints with the NYS DHR, EEOC and numerous ~~letters~~ letters ~~to~~ the MTA Agency departments. Based on the foregoing charges I believe the ~~respondent~~ defendant is in violation of unlawful discriminatory practice under the ADA, Rehabilitation Act, New York State Human Right Law (Executive Law, Article 15, Section 296 and Administrative Law.

Page 2 of 2 attach sheet  
from the employment Discrimination complaint.

Markoff, Roy Day  
9/22/2017



**VII. PLAINTIFF'S CERTIFICATION**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

9/22/2017		Roy Day	
Dated		Plaintiff's Signature	
Roy	L	Day	
First Name	Middle Initial	Last Name	
304 W. 120th street APT 1B			
Street Address			
New York	NY	10027	
County, City	State	Zip Code	
917-993-3150	dayroy@rocketmail.com		
Telephone Number	Email Address (if available)		

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☒ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Roy Day**  
**304 W 120th St Apt 1B**  
**New York, NY 10026**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**16G-2017-01091**

**Holly M. Woodyard,**  
**State & Local Program Manager**

**(212) 336-3643****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

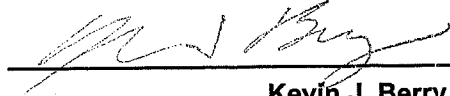
**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



**Kevin J. Berry,**  
**District Director**

**June 23, 2017**

(Date Mailed)

Enclosures(s)

cc:

**MTA NEW YORK CITY TRANSIT**  
**Attn: Byron Zinonos, Agency Attorney**  
**130 Livingston St., 12 Floor**  
**Brooklyn, NY 11201**